

FILED

UNITED STATES DISTRICT COURT

APR 15 2020

for the
Eastern District of TennesseeClerk, U.S. District Court
Eastern District of Tennessee
At Chattanooga

Chattanooga Division

1:20-mc-4-TKM-SKL

DANIEL BRADLEY DAVIS

Case No.

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.
 If the names of all the plaintiffs cannot fit in the space above,
 please write "see attached" in the space and attach an additional
 page with the full list of names.)

-v-

ANDREW LAWRENCE BERKE, MAYOR
CITY OF CHATTANOOGA*Defendant(s)*

(Write the full name of each defendant who is being sued. If the
 names of all the defendants cannot fit in the space above, please
 write "see attached" in the space and attach an additional page
 with the full list of names.)

COMPLAINT AND REQUEST FOR INJUNCTION**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	DANIEL DAVIS
Street Address	2301 WILDER ST
City and County	CHATTANOOGA
State and Zip Code	TENNESSEE 37406
Telephone Number	(423) 646-0029
E-mail Address	DBDAVIS1990@GMAIL.COM

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name	<u>ANDREW LAWRENCE BERKE</u>
Job or Title (<i>if known</i>)	<u>MAYOR, CITY OF CHATTANOOGA</u>
Street Address	<u>101 E 11TH ST</u>
City and County	<u>CHATTANOOGA, HAMILTON</u>
State and Zip Code	<u>TENNESSEE 37402</u>
Telephone Number	<u>(423) 643-6311</u>
E-mail Address (<i>if known</i>)	<u>mayor@chattanooga.gov</u>

Defendant No. 2

Name	<u>CITY OF CHATTANOOGA</u>
Job or Title (<i>if known</i>)	<u>MUNICIPAL GOVERNMENT</u>
Street Address	<u>101 E 11TH ST</u>
City and County	<u>CHATTANOOGA, HAMILTON</u>
State and Zip Code	<u>TENNESSEE 37402</u>
Telephone Number	<u>(423) 643-6311</u>
E-mail Address (<i>if known</i>)	

Defendant No. 3

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

Defendant No. 4

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

- Federal question Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

First Amendment to the U.S. Constitution and Fourteenth Amendment to the U.S. Constitution

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)*
_____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____. Or is a citizen of
(foreign nation) _____.

- b. If the defendant is a corporation

The defendant, *(name)* _____, is incorporated under
the laws of the State of *(name)* _____, and has its
principal place of business in the State of *(name)* _____.
Or is incorporated under the laws of *(foreign nation)* _____,
and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Within the city limits of Chattanooga Tennessee

- B. What date and approximate time did the events giving rise to your claim(s) occur?

April 2, 2020

- C. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*) Plaintiff was prohibited from attending worship services at my church or visiting drive-in church services at another church in Chattanooga. The Mayor issued a blanket ban on all gatherings of ten or more, except for retail establishments and drive-in services, such as Sonic. When a local church invited me to a drive-in service, the mayor sent out a Tweet instructing the church that such a service would violate his executive order in regards to large gatherings, despite businesses that are not constitutionally protected being allowed to continue drive-in and drive-thru services or allow more than ten people in a build at any point. Every person who practices their religious beliefs at an established place of worship has been impacted. We were prohibited from attending any worship services on Easter, the most sacred holiday of 2020 for Christians. The community has seen what the mayor has ordered and also posted on Twitter, as it has been reported by multiple local news channels and is published on Twitter and Chattanooga.gov.
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IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

The Supreme Court "has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief." *Newsom v. Norris*, 888 F.2d 371, 378 (6th Cir. 1989). Indeed, the Court held in *Elrod v. Burns* that the "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." 427 U.S. 347, 373 (1976).

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

The Plaintiff respectfully asks the Court to issue a temporary retaining order so the Plaintiff, and other congregants, can continue to freely exercise their religious practices and beliefs as they feel compelled.

VI. Certification and Closing

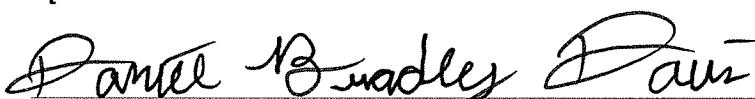
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 4/15/2020

Signature of Plaintiff



Printed Name of Plaintiff

DANIEL BRADLEY DAVIS

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address
